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8 ALASDAIR TURNER,  
9 Plaintiff,  
10 v.  
11 APPLE, INC.,  
12 Defendant.

Case No. [5:20-cv-07495-EJD](#)

**ORDER DENYING MOTION FOR  
RELIEF FROM NONDISPOSITIVE  
ORDER OF MAGISTRATE JUDGE**

Re: ECF No. 277

13 Before the Court is Plaintiff Alasdair Turner’s motion for relief from Magistrate Judge  
14 Cousins’ nondispositive discovery order. Mot, ECF No. 277. Judge Cousins denied Turner’s  
15 request to compel discovery of an internal dashboard used by Defendant Apple, Inc. because he  
16 “was not persuaded that . . . the information was relevant and proportional to the needs of the case  
17 under [Rule] 26.” Minute Entry, ECF No. 252. Since Judge Cousins’ order was neither clear  
18 error nor contrary to law, the Court **DENIES** Turner’s motion.

19 **I. BACKGROUND**

20 In general terms, Turner alleges that certain versions of Apple’s iOS operating system for  
21 iPhones contain code that misuse consumers’ cellular data. Second Am. Compl. ¶¶ 3–4. Turner  
22 seeks to hold Apple liable for that alleged misuse. To understand how that iOS code functions and  
23 behaves, Turner sought access to a “dashboard” that Apple purportedly used to track and fix code  
24 that misused customers’ data. In Turner’s view, this dashboard was plainly relevant to the “data  
25 consumption problem that is the core subject of this case.” Mot. at 1. Apple, however, countered  
26 that the dashboard was limited to data from beta testers and other internal testers and therefore not  
27 representative of the production versions of iOS released to consumers, nor of how actual  
28 consumers used iOS.

1        Judge Cousins agreed with Apple. Ruling from the bench, Judge Cousins explained he  
2        was “not persuaded” that the requested dashboard discovery would be anything other than “an  
3        expensive and burdensome fishing expedition.” Hr’g Tr. at 34:22–35:2, ECF No. 255.

4        **II. DISCUSSION**

5        When reviewing a magistrate judge’s nondispositive order, this Court may set aside or  
6        modify parts of that order only when those parts are “clearly erroneous or [] contrary to law.” Fed.  
7        R. Civ. P. 72(a); *see also* 28 U.S.C. § 636(b)(1)(A). The clear error standard applies to the  
8        magistrate judge’s factual findings. *In re Cathode Ray Tube Antitrust Litig.*, MDL No. 1917, 2022  
9        WL 20611260, at \*1 (N.D. Cal. Oct. 14, 2022). Clear error occurs where the Court “is left with a  
10        definite and firm conviction that a mistake has been committed.” *EEOC v. Peters’ Bakery*, 301  
11        F.R.D. 482, 484 (N.D. Cal. 2014) (internal quotations and citation omitted). Meanwhile, under the  
12        “contrary to law” standard, the Court reviews de novo the magistrate judge’s legal conclusions as  
13        well as mixed questions of law and fact. *H-E-B, LP v. Olympia Tools Int’l, Inc.*, No. 21-cv-0832,  
14        2021 WL 3171890, at \*1 (S.D. Cal. July 27, 2021). A decision that “applies an incorrect legal  
15        standard or fails to consider an element of the applicable standard” is contrary to law. *In re*  
16        *Cathode Ray Tube*, 2022 WL 20611260, at \*1.

17        Turner argues that Judge Cousins’ decision must be reversed because (1) he clearly erred  
18        when finding that the dashboard’s relevance was too speculative to justify the burden of  
19        production, and (2) he applied a legal standard contrary to law when he considered the procedural  
20        posture of the case. Neither is a ground for reversal.

21        *First*, the record contains enough evidence showing the dashboard’s lack of relevance to  
22        support Judge Cousins’ order. Several witnesses testified that the dashboard reflects data from  
23        pre-release versions of iOS. Cili Dep. at 44:24–45:6, ECF No. 150-3; Miller Dep. at 332:4–22,  
24        ECF No. 305-3; Prunty Dep. at 94:3–95:3, ECF No. 312-5. Witnesses also testified that the beta  
25        and internal testers using these pre-release versions did not use their phones like an average  
26        consumer would. Miller Decl. ¶ 15, ECF No. 154-5. While Turner may disagree with the  
27        interpretations or weight of this testimony, such disagreements are not so substantial that they  
28        leave the Court “with a definite and firm conviction that a mistake has been committed.”

1        *Second*, Judge Cousins did not apply an incorrect legal standard. When he referenced the  
2 procedural posture of the case, he did so only to acknowledge that potential discovery may have  
3 different relevance to class certification when compared to merits issues on damages. Hr'g Tr. at  
4 34:10–21. That was correct.

5        **III. CONCLUSION**

6        Turner's motion is **DENIED**.

7        **IT IS SO ORDERED.**

8        Dated: May 28, 2025

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11        EDWARD J. DAVILA  
12        United States District Judge

13        United States District Court  
14        Northern District of California